

Michigan Farm Bureau Written Testimony

Michigan House of Representatives

February 27, 2008

Thank you madam chair and members of the committee, my name is Matt Smego, Legislative Counsel for Michigan Farm Bureau, the state's largest general farm organization with over 47,000 farm family members. Along with me to day is Scott Piggott, the manager of our Agricultural Ecology Department.

I would like to start today by expressing my appreciation to the chair for her effort to work with Senator Patty Birkholz in a bi-partisan/bi-cameral fashion to try and resolve differences in the two bill packages over the past couple of months; however, there still seems to be some significant issues that need to be addressed.

While we support provisions of this legislation that strengthen Michigan's authority to conserve and protect the waters of the Great Lakes Basin and are mindful of agriculture, we oppose this package of bills as they include provisions that create regulatory requirements that will overload the growth of a developing water conservation ethic for Michigan. We are also concerned that

this legislative package is not mindful of the strides Michigan has made regarding water management nor the work ahead.

Growing a water conservation ethic for Michigan is a delicate process. It's a lot like Charlie Brown's Christmas tree, fragile because of the abundance of our resource but with promise. In the past 5 years, Michigan has loaded Charlie's Christmas tree with new registration and reporting requirements, has implemented a conflict resolution program for water use, has created an ecological protection standard for trout streams regarding water use, and has created a Groundwater Conservation Advisory Council that has developed a water use assessment tool that for the first time in the history of the world has created a statewide linkage between future water use and fish populations. In addition, Michigan stands on the brink of implementing the Great Lakes Compact. Michigan Farm Bureau has supported each of these efforts with hundreds of hours of technical support and information transfer with thousands of Great Lakes Basin farmers. We urge the Michigan Legislature to ratify the Great Lakes Compact with the stipulation that the State does not surrender its legislative authority to review and approve compact standards.

For all of this work, the work ahead is harder and more important. **No person in**

this state, not the Legislature, not the Groundwater Council, not the departments have seen the developed assessment tool work with finalized parameters provided by the legislature. Michigan does not understand if this model will over restrict Michigan and inhibit growth of business. We support the implementation of the assessment tool as the results would replace arbitrary setbacks with science. Implementation of the assessment tool must include:

- A phase-in period to provide landowners and operators an opportunity to utilize the tool and determine its validity in the real world.
- Meaningful public input regarding the systems strengths and weaknesses of the assessment tool.
- Legislative recognition of weather variability and potential needed changes to the water use assessment process.

Michigan agriculture is committed to continuing to grow a water conservation ethic with continued registration, reporting, developed right to farm Generally Accepted Agricultural Management Practices for water conservation, testing and usage of the assessment tool, supporting research for increased agricultural water use efficiencies, working with the Legislature to craft better incentives for water conservation, inclusion of water conservation in the Michigan Agriculture Environmental Assurance Program or MAEAP and support for increased

recordkeeping on farms.

Our ability to focus on this commitment is impaired by increased permitting provisions, further tightening of available water in the absence scientific reasoning and language that extends the public trust.

If the assessment tool is successfully implemented, **no future large quantity water withdrawal will be able to cause an adverse resource impact** as defined in the 2006 legislation. We believe this proves that management and regulation of the waters of the Great Lakes Basin does not require water use permitting. Unless a use meets current permitting requirements, **why should a new use receive permission from the State to use water if the State has determined that the use is not causing an adverse resource impact?** Proposed permitting requirements in this legislation would lower permitting thresholds and would include permitting requirements such as **AN EVALUATION OF ENVIRONMENTAL, HYDROLOGICAL, AND HYDROGEOLOGICAL CONDITIONS THAT EXIST AND THE PREDICTED EFFECTS OF THE INTENDED WITHDRAWAL** and a **determination of reasonableness**. We have expressed concerns in the past that water use permitting takes away from Michigan's riparian doctrine. We do not support any system that preempts the

riparian doctrine.

If a water use permit from the DEQ is **not** about protecting the environment, we are concerned that the purpose of the permit is to invoke a public vetting of the reasonableness of a water use where winners and losers are picked and uses are prioritized and private property rights are diminished, **AGAIN IN THE ABSENCE OF A DETERMINATION THAT THE PROPOSED WATER USE HAS CREATED AN ADVERSE RESOURCE IMPACT AS DEFINED.** This concern is realized with the included statement that this legislation shall not **LIMIT THE RIGHT OF A PERSON WHOSE INTERESTS HAVE BEEN OR WILL BE ADVERSELY AFFECTED TO INSTITUTE PROCEEDINGS IN CIRCUIT COURT AGAINST ANY PERSON TO PROTECT SUCH INTERESTS.** We believe that Food and fiber production is in the public interest, is a reasonable use of water, and provides economic and ecological benefits to the Great Lakes Basin.

We are also concerned about provisions that place ultra-restrictive provisions for Michigan's cold water trout streams. The Groundwater Conservation Advisory Council recognized that a large amount of water can be removed from cold streams and not harm fish populations. While we support increased protections beyond the council recommendations, placing the adverse resource impact line at

1% of thriving fish populations will force approximately 60% of the state's 3000 cold streams to be at the ARI line with 70 gallons per minute removed from the stream through ground or surface water. This will limit the growth of farms including fruit, vegetable and aquaculture operations.

We are concerned that requiring index flow determination to commence two years prior to the implementation of the assessment tool, some areas may already be at the adverse resource impact line. **NOBODY** knows how many areas are already at the ARI line if this is not addressed. Imagine talking in your respective districts about the implementation of the assessment tool and a constituent says that there is no available water in their area before the tool was even finalized.

We are also concerned with references to the Inland Lakes and Stream Act for lake withdrawals, lacking drainage area consolidation language and included language that would allow local units of government to recommend that a new water use be reviewed if it BELIEVES the use has the potential to impact other users.

Michigan Farm Bureau has represented agriculture as a member of the

Groundwater Conservation Advisory Council throughout the development of the water use assessment tool. The council operated with guiding principles, acknowledging that Michigan has an abundance of water resources; a valuable asset that if used efficiently, can provide the basis of a strong economy and high quality of life in Michigan. The council also acknowledged that Michigan's water resource should be managed for current and future use based on well founded scientific analysis. We do not view House Bills 5069 & 5072 in their current form as advancing the consensus needed to implement a water conservation ethic in Michigan.

Thank you for your consideration of this testimony.